

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

MADHU JAIN,

Plaintiff,

v.

A CAPE ANN WHALE WATCH, INC.,

Defendant.

CIVIL ACTION NO. 05-11267-MEL

MOTION FOR JUDGMENT AS A MATTER OF LAW

Defendant, A Cape Ann Whale Watch, Inc. ("Cape Ann"), hereby moves for judgment in its favor as a matter of law. As grounds for its motion, Cape Ann submits that the plaintiff has failed to introduce evidence sufficient to support a finding:

that the conduct of the defendant fell below any applicable standard;

that the conduct of the defendant reflected a lack of due care under the circumstances;

that the diamond-plate surface of the ramp was improper or unreasonable; or

that any act or conduct of the defendant was the cause of plaintiff's injury.

Inasmuch as the plaintiff's claim cannot prevail under these circumstances, a ruling against her is called for.

WHEREFORE, Cape Ann respectfully prays that judgment as a matter of law be entered in its favor.

CERTIFICATE OF SERVICE: Undersigned counsel hereby certifies that s/he has this day provided a true copy of this document to all counsel of record and all parties appearing pro se (if any) by the method indicated alongside their respective names as shown below.

Dated: June 12, 2007

served upon:

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A CAPE ANN WHALE WATCH, INC.

By its attorneys,

/s/ Michael Rauworth

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